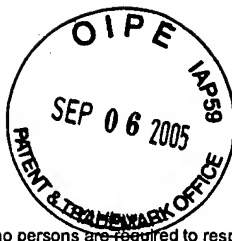


Doc Code: AP.PRE.REQ



PTO/SB/33 (07-05)

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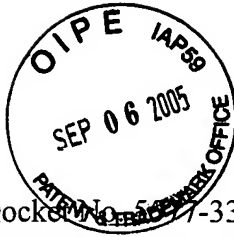
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>September 2, 2005</u></p> <p>Signature <u>[Signature]</u></p> <p>Typed or printed name <u>Erin A. Campion</u></p>		Application Number	Filed
		10/042,794	January 9, 2002
		First Named Inventor	
		Jon Anthony Bell	
Art Unit		Examiner	
2192		Romano, John J.	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>48,568</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		<p><u>[Signature]</u> Signature</p> <p><u>Elizabeth A. Stanek</u> Typed or printed name</p> <p><u>(919) 854-1400</u> Telephone number</p> <p><u>September 2, 2005</u> Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			

<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE EXAMINING GROUP 2192**

Attorney's Docket No. 7-337/RSW920010175US1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Bell *et al.*

Serial No.: 10/042,794

Filed: January 9, 2002

For: **EFFICIENT CONFIGURATION DATA MIGRATION TECHNIQUE**

Confirmation No.: 5106

Group Art Unit: 2192

Examiner: John J. Romano

Date: September 2, 2005

Mail Stop AF

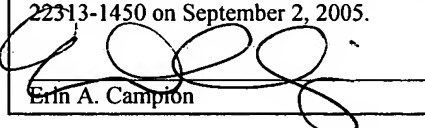
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Erin A. Campion

**REASONS IN SUPPORT OF APPLICANTS' PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program.

No fee or extension of time is believed due for this request. However, if any fee or extension of time for this request is required, Applicants request that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 09-0461.

REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed June 2, 2005 and the Advisory Action mailed August 25, 2005. The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Claims 1-3, 7-11, 14-16, 18-20, 24-26 and 28 are rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,728,877 to Mackin *et al.* (hereinafter "Mackin"). See Final Office Action, page 7. Claims 12, 13 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mackin in view of United States Patent No. 5,969,704 to Green *et al.* See Final Office Action, page 12. Claims 4, 6, 21, 22 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mackin in view of United States Patent No. 6,757,720 to Weschler. See Final Office Action, page 13. Claims 5 and 23 stand rejected as being unpatentable over Mackin in view of Weschler and in further view of obviousness. See Final Office Action, page 15. Applicants respectfully submit many of the recitations of the pending claims are not met by the cited references for at least the reasons discussed herein and in Applicants' previously filed Amendments of March 17, 2005 and August 2, 2005. Therefore, Applicants respectfully request review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity and without waiving the right to argue additional grounds should this Petition be denied, Applicants will only discuss the recitations of the independent claims that are not met by Mackin.

Since the Amendments made in Applicant's Amendment After Final were not entered, Claim 1 recites:

A method of migrating configuration data from a first executable product to a second executable product, the method comprising:
instructing, from an external agent, the first executable product to provide a file containing selected configuration data; and
producing, by the first executable product, the file containing the selected configuration data in a format acceptable to the second executable product.

Independent Claims 10, 18 and 19 contain similar recitations to the highlighted recitations. Applicants submit that at least the highlighted recitations of Claim 1 are not met by the cited references.

The Final Office Action states that Mackin teaches the highlighted recitation at column 8, lines 9-12. The cited portion of Mackin states:

An OLE or ActiveX control is an object that accepts and responds to events, such a selection by a mouse or a key on a keyboard, or a selection by another object-oriented member function.

See Mackin, column 8, lines 9-12. Mackin may use OLE to implement some portion of the system discussed in Mackin. In other words, the system discussed in Mackin may interact with a user interface, for example, a keyboard or mouse. In contrast, Claim 1 recites "instructing, from an external agent, the first executable product to provide a file containing selected configuration data." Nothing in Mackin discloses or suggests that the instruction to create the file comes from an external agent. In fact, Mackin specifically recites throughout the specification that the system "automatically" transitions configuration settings from a source (old) computing system to a target (new) computing system. See e.g., Mackin, column 4, lines 15-17: *see also*, Mackin, Title; Abstract; column 2, lines 46-55; and column 7, lines 12-14. Thus, Mackin specifically teaches away from waiting for an instruction from an external agent before creating the file containing the configuration data as recited in Amended Claim 1.

Accordingly, Applicants submit that the recitation of "instructing, from an external agent, the first executable product to provide a file containing selected configuration data;" recited in Claim 1 of the present invention is not met by the cited references for at least these reasons. Furthermore, the corresponding recitations of Claim 10, 18 and 19 are also not met for at least the reasons discussed above with respect to Claim 1. Therefore, Applicants respectfully request that the present application be reviewed and reversed by the appeal conference prior to the filing of an appeal brief.

Respectfully submitted,



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